

Google Settles Pharmacy Ad Probe for \$500M

LAURA CRIMALDI, Associated Press

PROVIDENCE, R.I.(AP) — Google Inc. has agreed to pay \$500 million to settle a U.S. government investigation into the Internet search leader's distribution of online ads from Canadian pharmacies illegally selling prescription drugs to American consumers.

The settlement means Google will not face criminal prosecution for accusations that it improperly profited from ads promoting Canadian pharmacies that illegally imported drugs into the United States, Rhode Island U.S. Attorney Peter F. Neronha said. It is the first time an Internet search engine is being held responsible for the illegal distribution of drugs.

"It sends a clear message to both Google and to others that contribute to America's pill problem that they will be held to account for endangering the health and safety of the residents of this district and to persons all across the United States," said Neronha, who described the forfeiture as one of the largest in U.S. history.

The settlement delivered a stinging rebuke for Google, whose motto is "don't be evil." In announcing the settlement, authorities left little doubt that Google had misbehaved. From its vantage point, Google crossed into a shady area of prescription-drug advertising in pursuit of higher profits, which have boosted its stock price and enriched its employees since the company's initial public offering in 2004.

In that sense, the potential damage to Google's reputation may be more troubling to the company than the amount of money it's paying to sweep the problem under the rug. The \$500 million is a sum Google can easily afford; it had \$39 billion in cash at the end of June.

The figure represents the gross revenues Google collected in ad buys from hundreds of Canadian pharmacies, plus the earnings generated from the illegal drug sales to American consumers from 2003 to 2009, federal investigators said.

Google said in a statement that it should not have allowed Canadian pharmacies to market prescription drugs to American consumers.

"We banned the advertising of prescription drugs in the U.S. by Canadian pharmacies some time ago," the statement said. "However, it's obvious with hindsight that we shouldn't have allowed these ads on Google in the first place." The company declined further comment. Google shares were up slightly Wednesday, finishing the day trading at \$523.

Federal officials said Google knew as early as 2003 that its ad system was allowing Canadian pharmacies to make illegal sales. The transactions included selling

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prescription drugs without valid prescriptions from a licensed medical practitioner at a premium, prosecutors said.

Shipping prescription drugs into the U.S. from abroad violates drug and other laws, investigators said. Prescription drugs shipped into the U.S. from Canada are not subject to oversight by Canadian regulatory authorities and many sell drugs from countries with inadequate pharmacy regulations, prosecutors said.

A separate U.S. Food and Drug Administration investigation into drugs that claimed to be manufactured in Canada found that 85 percent of the drugs examined came from 27 different countries, including some that were found to be counterfeit, said Kathleen Martin-Weis, acting director of the FDA's Office of Criminal Investigations.

Investigators noted that Google did not allow online pharmacies from any other country aside from Canada to advertise to American consumers.

The probe did not touch the overseas online pharmacies, Neronha said, because American officials did not have the authority to bring charges. He said the case raised some "novel legal theories," given that if it had gone to trial, prosecutors would have to prove an Internet search engine helped pharmacies violate federal law.

Investigators snared Google's ad system by creating seven undercover websites offering prescription drugs to be sold without a prescription or the completion of an online medical questionnaire, Martin-Weissaid. An undercover investigator informed Google employees creating the advertising for the products that they were manufactured overseas and did not require customers to have a valid prescription, she said.

"In each instance, despite this knowledge, Google employees created a full advertising campaign for each of the undercover websites," Martin-Weis said.

Investigators said they quickly spent the money they had set aside for the ad buys and then pored over 4 million pages of e-mails and financial records to make their case. The undercover websites were live for four months, investigators said.

Google is no longer letting Canadian online pharmacies advertise to U.S. consumers.

Officials started investigating Google after a suspect involved in an unrelated multimillion-dollar financial fraud was caught by authorities in 2008 after fleeing to Mexico, officials said.

The suspect, David Whitaker, told investigators that while on the lam he began to advertise drugs illegally on Google, Neronha said. He later helped investigators construct the undercover websites used in the investigation.

Whitaker's case was unsealed in U.S. District Court in Providence on Tuesday. Under a plea agreement signed in 2008, federal prosecutors agreed to recommend a

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lesser punishment in exchange for Whitaker's cooperation. He is awaiting sentencing on wire fraud, commercial bribery and other charges.

The investigation laid bare how vulnerable Google's automated ad system known as Ad Words is to the machinations of shady operators. The ad network is a major moneymaker for Google and is expected to generate more than \$30 billion in revenue this year.

Google acknowledged holes in its ad system in a federal lawsuit filed last fall against dozens of "rogue" online pharmacies that were finding ways to place ads for drugs despite the company's efforts to prevent abuses.

In one of the more common practices, the illicit drug dealers would plug subtle misspellings of drug names frequently entered into Google's search engine to generate ads alongside the results. For instance, one illegal drug advertiser spelled the anabolic steroid Dianabol as "Dianobol" in Google's automated system to produce an ad, according to the lawsuit in San Jose federal court.

Google has obtained court orders banning some of the rogue pharmacies named in the lawsuit and is still seeking injunctions against the others.

Rhode Island has aggressively investigated doping activities recently. Last year, the Chinese company Gene Science Pharmaceutical Co. and its CEO pleaded guilty to selling human growth hormone and agreed to pay \$7.5 million.

The Google lawsuit came seven months after the Internet search leader imposed new restrictions on the kinds of pharmaceutical ads it would accept in the U.S. and Canada. Investigators say the changes came once Google became aware of the federal inquiry in 2009.

The new rules were supposed to allow ads only from U.S. pharmacies that had been accredited by a special program run by the National Association Boards of Pharmacy. In Canada, the accreditation had to come from the Canadian International Pharmacy Association.

Google's critics have complained in the past that the company and other websites haven't been vigilant about policing pharmaceutical ads because they are so lucrative. Drug and health care advertising generated about \$1.3 billion in Internet spending last year and is expected to grow to \$2.6 billion by 2015, according to the research firm eMarketer Inc.

The agreement also ends speculation that began in May when the company made a reference in its quarterly filing with the Securities and Exchange Commission to a Justice Department investigation into the usage of Google's automated system for placing ads alongside search results and other content at hundreds of thousands of websites. Google had raised even more intrigue by subtracting \$500 million from its first-quarter earnings to cover a potential settlement.

A portion of the proceeds from the forfeiture will go to law enforcement agencies

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who worked on the investigation, including Rhode Island police departments.

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